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In the

Supreme Court of the United States

OCTOBER TERM, 1967

No. [redacted] 9

BERNARD SHAPIRO, Welfare Commissioner of Connecticut

Appellant

v.

VIVIAN THOMPSON

Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

BRIEF OF THE APPELLANT

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In the

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No. 813

BERNARD SHAPIRO, Welfare Commissioner,
State of Connecticut,

Appellant

v.

VIVIAN THOMPSON,

Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

BRIEF OF THE APPELLANT

OPINION BELOW

The opinion of the Three Judge Court of the United States District Court for the District of Connecticut (A, 4a) announced on June 19, 1967 may be found in 270 F. Supp. 331.

Jurisdiction

The judgment of the Three Judge Court in favor of the appellee was entered June 30, 1967 (A, 4a) a copy of which is printed in the Appellant's Appendix (R, 36a). The respondent docketed the appeal in the Supreme Court of the United States on November 13, 1967. Jurisdiction of this Court is invoked under Title 28 of the United States Code Section 1253 which provides for direct appeals from decisions of Three Judge Courts.

Question Presented

The question presented which was resolved by the Three Judge District Court is:

1. Does Section 17-2d of the 1965 Supplement to the Connecticut General Statutes violate the Fourteenth Amendment, Section 1 to the United States Constitution.

Statutes, Regulations and Policy Involved

Section 17-2d of the 1965 Supplement to the Connecticut General Statutes is the Statute involved and this Statute, the regulations promulgated therefrom and the policy written to carry out the Statute are set forth in Appendix A, B & C respectively which are attached hereto. [B, 19, 20, and 22]

Statement of Facts

The plaintiff, a 19 year old unwed mother of a minor child, moved from Massachusetts, where she had been receiving Aid to Dependent Children from the City of Boston, to Hartford, Connecticut on about June 20, 1966. The plaintiff who was pregnant and later gave birth to another child lived with her mother for a while in Hartford.

Because of her mother's inability to support her, the plaintiff applied for Aid to Dependent Children from the City of Hartford. Here she was told that because of 17-2d of the Connecticut Statutes she was only eligible for temporary aid.

On October 3, 1966 the plaintiff applied for Aid to Dependent Children from the Connecticut Welfare Department of which the defendant is Commissioner. Her application was denied on November 1, 1966 solely because of residency requirements. The plaintiff took a Fair Hearing appeal from this refusal and the Fair Hearing Officer upheld the refusal on the basis of 17-2d.

Catholic Family Services has supported the plaintiff from January 25, 1967 to June 20, 1967 when she became eligible for Aid to Dependent Children.

Connecticut has no residency requirements for any public assistance program except Aid to Dependent Children and under Aid to Dependent Children Connecticut pays 54% of the cost with the Federal Government paying 46%. The average cost per individual case on Aid to Dependent Children in Connecticut is $48.40 per month.

Under the Connecticut regulations to 17-2d a person with a bona fide job offer coming to the state is eligible for Aid to Dependent Children and if they are ready, willing and able to work but have no bona fide job offer, they are eligible for Aid to Dependent Children if they sign up for training under the Title V program or other state job training programs.

Connecticut's yearly per person case load on Aid to Dependent Children has increased from 26,076 in 1960 to 48,485 in 1966.

Argument

I.

DOES SECTION 17-2d OF THE CONNECTICUT GENERAL STATUTES, PARTICULARLY AS IT IS INTERPRETED BY THE REGULATIONS AND POLICY, VIOLATE THE EQUAL PROTECTION AND PRIVILEGES AND IMMUNITY CLAUSES OF THE FOURTEENTH AMENDMENT?

A. Does Connecticut in Fact Discriminate Against New Residents on a Poverty Basis?

The appellee's real contention, which is supported by the majority opinion [A, 26a], is that the appellant as Welfare Commissioner for the State of Connecticut, discriminates

against new residents who are applicants for Aid to Dependent Children solely on a poverty basis.

The appellant concedes that Connecticut may discriminate against potential applicants, who come into the state, where the substantial factor of their entering is to get on the welfare rolls, and who would not come into the state if there were no liberal welfare benefits; but the appellant will argue later that this is a reasonable and valid discrimination. The appellant denies that there is any discrimination on a poverty basis, and, in fact, claims that any elderly poor, mentally or physically disabled poor, or person who was ready to work, or even expresses a desire to work, is eligible for benefits on entering the State of Connecticut on the same basis as a long time resident. Connecticut has no residency requirement for any public assistance program except Aid to Dependent Children [Stipulation of Facts No. 52, A, 44a]. The reason for this is that normally the elderly poor and the mentally or physically disabled come into the state because they previously lived here or to be near close relatives.

To see whether Connecticut discriminates against potential applicants for Aid to Dependent Children the Court must read Section 17-2d of the 1965 Supplement to the General Statutes, [B, 19]; the regulations promulgated under this statute, [B, 20]; and the pertinent policy written to carry out the intention of the statute, [B, 22].

Any person or family who arrives in Connecticut with a specific job offer or an ability to support themselves for three months is entitled to Aid to Dependent Children. [Section 17-2d-1 (b) and (c); Connecticut State Welfare Public Assistance Manual, Volume I, Chapter 2, Section 219.1 a, revised July 18, 1966].

A person who has a desire to work and is at all trainable is immediately eligible for welfare. If he makes a bona fide

effort to get a job he can have the assistance which all Aid to Dependent Children applicants get up to sixty days. If he enrolls in a Connecticut work training program or a training project under Title V, assistance is continued until the course is completed with the applicant obtaining regular employment, even if this time extends through the whole one-year residency period. [B, 24].

In view of the above it would seem that the field of alleged discrimination is narrowed to the person who comes to Connecticut mainly for welfare benefits under Aid to Dependent Children. Even here there is no permanent denial of welfare. If the person can get aid from their own family or aid from some charitable group for a one-year period, that person is eligible for welfare just as the appellee in this case became eligible for welfare before judgment was entered.

Actually then the real claim of the appellee is that Connecticut discriminates against a poor applicant who has no desire to enter the labor market; and the fundamental question facing the Court is whether this discrimination is a reasonable exercise of police power or whether it violates the equal protection and privileges and immunities clause of the Fourteenth Amendment.

Parenthetically it should be noted that the appellee's claim of unavailability to work because of the age of her children, while an argument, failed to satisfy the appellant because there are many mothers in Connecticut and elsewhere in this country that are gainfully employed every day. The big difference seems to be a desire to work. There is nothing in the record before the Court to show that either the appellee or her children suffered from poor health or had any other special problem, such as lack of education, which kept her out of the labor market.

B. Connecticut's Historical Right to Legislate for the Public Welfare.

The State of Connecticut prior to the adoption of the Constitution possessed sovereign powers including the regulation of its police powers, and certainly the adoption of the United States Constitution did not create the powers of the state but only limited such power, and except as so limited the power of the state remains supreme. *Carter* v. *Carter Coal Co.*, 298 U.S. 238, 294. How then may we ask has there been created in the federal judiciary the power to cut down this fundamental police power of the State of Connecticut to enact legislation in the field of public welfare which is civil in nature, not permanent in its effect on any party, and deals with the spending of Connecticut tax raised funds.

"The Fourteenth Amendment, itself a historical product, did not destroy history for the states and substitute mechanical compartments of law all exactly alike. If a thing has been practiced for two hundred years by common consent it will need a strong case for the Fourteenth Amendment to affect it . . ." *Jackman* v. *Rosenbaum*, 260 U.S. 22, 31. This should be particularly true where the statute sought to be called unconstitutional is not racially aimed or motivated.

"The historical context in which the Fourteenth Amendment became a part of the Constitution indicates the matter of primary concern was the establishment of equality and enjoyment of basic civil and political rights from the discriminatory action on the part of the state based on consideration of race and color and the provisions of the amendment are to be construed with this fundamental purpose in mind." *Shelly* v. *Kraemer*, 334 U.S. 1, 23.

This principle was recently reiterated in the *McLaughlin* v. *Florida*, 379 U.S. 184, 192 where the Court stated in part "the central purpose of the Fourteenth Amendment

was to eliminate racial discrimination emanating from official sources in the state, and the United States Supreme Court must be especially sensitive to Fourteenth Amendment policies where racial classification is embodied in a criminal law." See also *Bolling* v. *Sharpe*, 347, U.S. 497, 499 and *Konematsu* v. *The United States*, 323 U.S. 214, 216.

The question therefore should be should the Courts peruse a statute such as 17-2d, which is not racially aimed, but is claimed to violate the principles and immunities and equal protection clauses of the Fourteenth Amendment, with the same gimlet eye that they would in cases where it is obvious that these statutes are aimed racially?

State legislatures are presumed to have acted within their constitutional powers despite the fact that in practice their laws may result in some inequality. A statutory discrimination will not be set aside if any set of facts reasonably may be conceived to justify it. While no precise formula has been developed, the Fourteenth Amendment permits a wide scope of discretion in enacting laws which will affect some groups of citizens differently than others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the state's objective. *McGowan* v. *Maryland*, 366 U.S. 420, 425. See also *Breedlove* v. *Suttles*, 302 U.S. 277, 281; *Stebbins* 1. Riley, 268 U.S. 137, 142 and *Allied Stores of Ohio* v. *Bowers*, 358 U.S. 522, 527. A state should have considerable leeway in analyzing local problems and prescribing appropriate cures and there is no privileges and immunities violation if there are valid independent reasons for disparity of treatment *Toomer* v. *Witsell*, 334 U.S. 385, 396.

Connecticut should be allowed great latitude in passing a statute such as 17-2d, which statute should be struck down only if the discrimination is invidious and obnoxious. *Morey* v. *Dowd*, 354 U.S. 457, 463.

AND it should be shown by the appellee that the claimed inequity is actually and palpably unreasonable and arbitrary. *Frost* v. *Court Commission of Oklahoma*, 278 U.S. 515, 522.

With the state historically possessing these powers to pass laws for the public welfare without undue interference, the question emerges: is it a privilege and immunity of a citizen of the United States to impose on any state of his choice the burden of supporting himself and his family before he has satisfied a reasonably limited residence requirement? To hold that the Fourteenth Amendment protects the right of a citizen to be supported at public expense in any community to which he may journey, it has to follow that there is inherent in state citizenship a constitutional right to be supported at public expense free from any limitations whatsoever. No such right exists. In fact, just the opposite is true. There is no constitutionally imposed or common law duty on any state to provide public assistance. *People ex rel Heydenreich* v. *Lyons*, 30 N.E. 2d 46, 51. See also *in re Chirillo*, 28 N.E. 2d 890. *Jennings* v. *Davidson County*, 344 S.W. 2d 359, 362 and *Division of Aid for the Aged, Department of Public Welfare* v. *Hogan*, 54 N.E. 2d 781, 782.

C. The Legislative Reason for Passing Section 17-2d of the Connecticut General Statutes.

As has been previously stated a statute should be constitutional if it has some relation to the problem the legislature reasonably believes it faces, and it is not obnoxious, invidious and irrelevant to those problems. Whether or not it meets the tests is shown by: 1. A long history of this type of statute with many states having similar statutes and tacit congressional approval; 2. The size and growth of the state's welfare burdens and the background of liberality of the state legislature in programs that it has already carried out; and 3. The safeguards in the particular statute such as (a) its permanent effect on the persons allegedly discriminated

against, (b) whether it has criminal penalties, and (c) whether it is racially aimed.

Thirty-nine other states have statutes similar or more onerous than Connecticut concerning residency requirements for welfare applicants. [Stipulation of Facts 61 A, 45a] These statutes have been on the books in most states at least since the early days of the Social Security Laws, and in many cases residency laws were on the books prior to the creation of the federal government. The Congress has long recognized them in passing 42 U.S.C. 602b.

It would seem to be an exercise in judicial arrogance to hold that 17-2d is unconstitutional. In effect the Court would be saying that it is much more competent to say what constitutes public welfare and what is justice than the members of the legislatures of 40 states who passed these laws and continue to keep them on the books, the governors of the 40 states who sign these bills into law, and the Congress of the United States who have expressly recognized the problem and agreed that residency requirements are fair and equitable under all the facts available to the Congress and the President who signed the bill into law. This is particularly true when one considers that the ADC welfare burden in Connecticut in the seven-year period, from 1960 through 1966 has gone from 26,076 persons to 48,485, or nearly doubled. [Stipulation of Facts 60, A 45a]

Connecticut has long been a leader in a field of public fare. It has an open end budget so that no qualified applicant will be denied any type of welfare because the specific appropriation has run out. It ranks fourth in the nation in monthly payments of $197 for a family of four as against a national average of $148. [Pocket Data Book U.S.A., 1967, United States Department of Commerce. Statistical Reports Division, Library Congress card #A66-7638]. In fact the 1967 legislature has paassed an act concerning the establishment of

a cost of living commission which will in all probability put Connecticut at the top of the nation in its welfare expenditures per person. [Public Act 744, Public Acts of Connecticut, December Special Session 1965 and January Session 1967].

Representative Morris Cohen, Chairman of the House Welfare Committee for the Connecticut General Assembly clearly expressed the state's reasonable fear and its objective when moving for the acceptance and passage of the joint committee's favorable report on Section 17-2d when he stated as follows: "The laws of most states provide that public assistance will not be granted to anyone who has not been a resident of the state for a period of time usually varying from one year to five years. At present, Connecticut has no residency law. Our high cost of welfare is well known to all of us. It has probably nearly doubled since 1961. And this, in spite of a period of very high level prosperity. There are some people who come to Connecticut simply to get benefits of public assistance but the proportion of these is small. As responsible legislators we must at some point be interested in cost. I doubt that Connecticut can and should continue to allow unlimited migration into the state on the basis of offering instant money and permanent income to all who can make their way to the state regardless of their ability to contribute to the economy." [HB 82 Connecticut General Assembly House Proceedings, February Special Session 1965. Volume II Part 7, Page 3504.]

The question, faced up by the Connecticut Legislature, was whether unlimited migration of those poor who do not want to enter the labor market should be allowed, with the end result that Connecticut's liberal programs would be curtailed because of this additional tax bite, or whether Connecticut should set up a reasonable residence requirement that protected, at least in the first instance those poor resident applicants, who in the past, had contributed to the economy. The legislature wisely chose the latter course.

D. The Weakness of the Lower Court's Decision.

When reading the majority opinion, one looks in vain to find a single case cited by them that could reasonably have upheld their decision. The only conclusion the appellant can reach is that the Lower Court majority could find none.

To justify their decision the Lower Court quoted cases in which statutes were struck down for violating First Amendment rights, Fifth Amendment rights, and statutes that were racially aimed. All these statutes in the cases cited by the Lower Court differed from Section 17-2d and from at least one to a total of six very important distinctions:

(1) These quoted cases either involved criminal statutes which 17-2d is not; (2) They were permanent in their effect on the parties aimed at, which 17-2d is not; (3) They were racially aimed, which 17-2d is not; (4) They took away acquired property rights, which 17-2d does not; (5) They acted in a positive manner on the parties aimed at, which 17-2d does not; and (6) these statutes being declared unconstitutional by the Courts did not have the effect of telling that particular state how it would spend its own tax raised funds, which the majority decision in this case does.

The vice of using First Amendment cases to justify striking down a statute that is not racially aimed for violating the equal protection clause and privileges and immunities clauses is obvious. First Amendment rights occupy a preferred position in the galaxy of constitutional rights. *Kovacs* v. *Cooper*, 336 U.S. 77, 93; *Jones* v. *Opelika*, 316 U.S. 584, 600; *Marsh* v. *Alabama*, 326 U.S. 501, 509.

This being so the Court naturally should more closely scrutinize claimed violations of First Amendment rights and be more quick to strike down statutes which appear to curtail them. But should this standard be applied when viewing a

statute, not racially aimed, where there is a long history of use by many states with the consent of Congress, when the claimed constitutional violation is that of the Fourteenth Amendment? Clearly the answer should be "NO!" How then can the Lower Court justify *Sherbert* v. *Verner*, 374 U.S. 398; *Zemel* v. *Rusk*, 381 U.S. 1; *Dombroski* v. *Pfister*, 380 U.S. 479; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Speiser* v. *Randall*, 357 U.S. 146; *Kent* v. *Dulles*, 357 U.S. 116 as precedents in answering the question raised in the present case.

An example of how the Lower Court had to strain is shown where they say "Because Connecticut General Statutes 17-2d has a chilling effect on the right to travel, it is unconstitutional." [A, 25a] Does this fine sounding phrase "chilling effect" appear in a case which involves a statute similar to 17-2d? No. It was taken from *Dombrowski* v. *Pfister*, 380 U.S. 479, 487, which involved a criminal statute that was racially aimed; and the Court in that case said that if persons had to wait until they were prosecuted or perhaps convicted under the criminal statute in question, before they could raise the constitutional issue on appeal, it would have "chilling effect" on the exercise of their First Amendment rights.

This is a far cry from the context in which it was used in the present case.

In using the First Amendment case *Sherbert* v. *Werner*, 374 U.S. 398 to justify their decision the Lower Court again strained a First Amendment case. In the present case before the Court the appellee Thompson is clearly getting a gratuity from Connecticut. She has never contributed anything to the Connecticut economy before nor has she up until the present moment as she is now on welfare. However the Lower Court talks about the plaintiff in the Sherbert case getting a gratuitous benefit. Clearly she got no gratuitious benefit. There the plaintiff worked to earn her right to unemployment compensation. It was a property right she had acquired by the sweat

of her brow working for her employer. Contrast that so called "gratuitous benefit" with the present case.

In fact, the only two cases cited by the Lower Court that are Fourteenth Amendment cases in which the statutes are not racially aimed are *Carrington* v. *Rash,* 380 U.S. 513 and *Edwards* v. *California,* 314 U.S. 160.

The Carrington case is clearly distinguishable. First the imposition on the member of the armed forces to prevent him from voting was permanent. He could not vote in Texas if he lived there for a thousand years, and it applied to any election in that state. Secondly the Court in striking down this section of the Texas Constitution was not telling Texas how to spend Texas tax raised funds or directly increasing Texas' tax burden.

But even in this case the Court said "Texas has unquestioned power to impose reasonable resident restrictions on the availability of the ballot." *Carrington Supra,* Page 91.

E. The Applicability of the Edwards Case.

The case, on which not only the Lower Court but nearly all writers in the field of residence requirements for the poor hang their hat on, is *Edwards* v. *California,* 314 U.S. 160. The appellant will agree that it is a case which probably reached a correct decision, but it certainly should not be used to strike down Section 17-2d of the Connecticut General Statutes. The statute in question in the Edwards case was a criminal statute where the violator faced a possible jail sentence and a fine. There is not much question that this would have a "chilling effect" if one wanted to come into California in the late 1930s.

In contrast Section 17-2d is a civil statute. It stops no one from coming into Connecticut. It effects no one's property rights or freedom to settle any place or at any time in Connecticut. The proof that it had no real effect on Miss Thompson's

freedom of movement is that before the Lower Court could reach its decision she was drawing her state welfare check, and there is no evidence in the record that she suffered at all in her health, liberty, or pursuit of happiness during the one-year period of residency.

The decision in the Edwards case did not have the effect of telling California that they had to give Duncan welfare or how they would spend their tax raised funds. In fact, as Justice Byrnes pointed out Duncan got aid from the Farm Security Administration which was wholly financed by the Federal Government.

There is also a big difference between Duncan and Miss Thompson. Duncan had worked while in Texas and was ready and willing to work when he came to California. The statute under which he applied for relief made it a condition that "in making any relief payments under this section the Secretary of Agriculture is authorized to require of employable recipients of such payments the performance of work on useful public projects." [Works Administration, Chapter 252 Section 3a, Page 927 of U.S. Statutes at Large. Volume 53, Part 2 Public Laws, June 30, 1939.]

In fact the whole tenor of the relief acts that were first passed by the 73rd Congress and reaffirmed by subsequent Congress up until the Second World War were to increase employment and provide work, not to give welfare checks to anyone who had a desire to avoid the labor market.

Even Edwards' lawyer, Mr. Slaff, and the Select Committees' lawyers, Mr. Tolan and Mr. Silverman, did not envision their case as being a precedent that an indigent who was not ready or willing to enter the labor market should be entitled to welfare. The thrust of both their briefs stands solely for the proposition that an unemployed man who was indigent and who was willing to work should be able to travel freely

from state to state seeking employment. There is nothing in their briefs to show that an indigent who will not work should have an automatic right to impose himself on the welfare rolls of any state of his choice and get instant welfare. *Edwards Supra,* Pages 161 through 166.

Another distinction in contrasting the reasonableness of the two statutes involved is their permanent affect on the parties. Under the California statute it was always a crime to knowingly bring an indigent into the state. The Connecticut statute has an outside maximum of one year.

However the most telling argument against applying the Edwards' case as a rational to strike down 17-2d is the fact that if Duncan were to come into Connecticut today under the same circumstances he came into California he would be eligible immediately for welfare for sixty days; and because he was willing to work or be trained for work he could get welfare over the whole residency period either by registering at the Connecticut Unemployment Office and actively seeking work or entering into one of the state or federally financed training programs..

It should perhaps be further noted that the cases cited by Justice Douglas to support his concurring opinion, *Crandall* v. *Nevada,* 6 Wall 35, and the *Slaughterhouse Cases,* 16 Wall 36, could not be fairly applied here. In the former case, the taxing of persons leaving Nevada not only affected their right to cross the state line, it took property away from them without due process of law. The Slaughterhouse Cases were really cases involving a statute that created a tight, lucrative little monoply for the Crescent City Stock and Slaughterhouse Company to the exclusion of all competitors. What monopoly of rights to a small group is created by 17-2d?

The statute in the Edwards case may have had a "chilling effect" on interstate travel but the holding of the majority in the Lower Court in the present case stands for the proposition of subsidized settlement.

This certainly flies in the face of what was said in the Sherbert case, Supra, Page 412 where this Court said that although the exercise of religious rights under the First Amendment was a constitutional right, it was not a financially subsidized one. See also *Sweeney* v. *State Board of Public Assistance*, 36 F. S. 171, 174 affirmed 119 F. 2d 1023. Cert. denied 314 U.S. 611.

As Judge Jackson stated in the Edwards case, while indigence was not to be a basis for denying rights neither was it a source for granting them; that the state of being without funds was neutral fact. *Edwards Supra, Page* 184.

F. The Lower Court's Decision in Effect Tells Connecticut How it Must Spend its Own Tax Raised Funds.

The appellant could find no cases in which the United States Supreme Court in deciding a Fourteenth Amendment case told the state involved how they should spend their own state tax raised funds. Under the the Aid to Dependent Children program the state pays for 54% and under the Town Aid program the total contribution from state and local taxes is 77%.

By telling the state that 17-2d is unconstitutional and that they must give the appellee aid, the Lower Court majority have usurped a function of the legislative branch, which spending function is one the judiciary never enters.

The Federal Courts should be extremely cautious in strik-

ing down statutes that involve the spending of state tax raised funds or the state's power to legislate for the public welfare may be seriously curtailed. *Everson* v. *Board of Education, Township of Ewing,* 330 U.S. 1, 6.

Conclusion

Historically pauper relief has been a local and state function. It was not intended by the Fourteenth Amendment that all matters formerly within the exclusive cognizance of the state should become matters of national concern. *Snowden* v. *Hughes,* 321 U.S. 1, 11.

The Fourteenth Amendment was not intended to strip the states of their power to meet problems previously left to individual solution. *Everson case, Supra,* Page 7.

Because the Aid to Dependent Children per case load doubled from 1960 to 1967 with the cost going higher and higher, there is a practical limit to the amount of tax dollars that can be raised. The question that faces the Connecticut legislature is whether the load should be allowed to increase indiscriminately with the results that the very liberal program on the books will be lowered with Connecticut in a race with other states to see who can reach the lowest common denominator of aid, or whether Connecticut can set up some reasonable classification to control its case load. Even if the legislature was unduly worried and the problem did not arise in the dimensions they expect, it is not for the Court to say its guess is best and should be substituted for that of the legislature.

If Connecticut is to spend its tax money to support paupers, it certainly seems reasonable it should use its own tax

money first on those persons who would have contributed to the economy or demonstrated a willingness to do so.

Respectfully submitted,

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APPENDIX A

SECTION 17-2d OF THE 1965 SUPPLEMENT TO THE CONNECTICUT GENERAL STATUTES.

SECTION 17-2d ELIGIBILITY FOR TEMPORARY AID PENDING RETURN OF NON-RESIDENTS.

When any person comes into this state without visible means of support for the immediate future and applies for Aid to Dependent Children under Chapter 301 or general assistance under Part I of Chapter 308 within one year from his arrival, such person shall be eligible only for temporary aid or care until arrangements are made for his return, provided ineligibility for Aid to Dependent Children shall not continue beyond the maximum federal resident requirement. (1963 P.A. 501, S. 1.2; February, 1965 PA 564 (a).

APPENDIX B

Section 17-2d-1

Eligibility of Nonresidents Applying for Aid

Sec. 17-2d-1. Definitions.

As used in Section 17-2d of the 1965 Supplement to the General Statutes:

(a) "Arrival" is the establishment of a place of abode in Connecticut with intent to remain;

(b) "Visible means of support" consists of resources owned by the applicant, or income from regular employment other than seasonal or short-term, which resources or income are sufficient to enable the members of the family unit for whom assistance is sought to be self-maintaining in accordance with standards of public assistance;

(c) "Immediate future" is a period of not less than three months from the date of arrival in Connecticut;

(d) "Temporary aid or care" is welfare assistance granted to an applicant . . . up to the point at which arrangements as defined in this section have been made . . ., *provided such arrangements shall be made within sixty days from the date of application for aid;*

(e) "Arrangements" consists of a transportation plan for . . . return of *an applicant,* made by the agency to which application for assistance has been made; . . .

(f) "Return" means return to the place from which the family unit came to Connecticut;

(g) "Applicant" shall include members of the family unit for whom assistance is sought.

(Adopted May 3, 1966; amendment effective July 12, 1966.) Section 17-2d-2. Exceptions. The provisions of Section 17-2d of the 1965 Supplement to the General Statutes shall not apply to persons coming into Connecticut from a state with which Connecticut has a formal agreement waiving residence under the provisions of Section 17-10 of the General Statutes or to persons coming into Connecticut from a state which has enacted an inter-state compact similar to that contained in Sections 17-21a to 17-21d, inclusive, of the 1965 Supplement to the General Statutes. (Effective May 3, 1966.)

APPENDIX C

MANUAL VOL. 1 — CHAPTER II

CONNECTICUT STATE WELFARE DEPARTMENT

SOCIAL SERVICE POLICIES — PUBLIC ASSISTANCE

NONRESIDENTS — AFDC AND GENERAL ASSISTANCE

219.2 CRITERIA — For determining that a person or family is eligible for assistance:

1. If the application for assistance is filed within one year after arrival in Connecticut, the applicant must establish that he was self-supporting upon arrival and for the succeeding three months thereafter; or

2. If the application for assistance is filed within one year after arrival in Connecticut, the applicant must clearly establish that he came to Connecticut with a bona fide job offer; or

3. If the application for assistance is filed within one year after arrival in Connecticut, the applicant must establish that he sought employment and had sufficient resources to sustain his family for the period during which a person with his skill would normally be without employment while actively seeking work. Personal resources to sustain his family for a period of three months is considered sufficient. Those who come to Connecticut for seasonal employment such as work in tobacco or short term farming are not deemed to have moved with the intent of establishing residence in Connecticut.

219.3 Application of Policy

If application for assistance is made within the one year period after the family's arrival in Connecticut with no visible means of support for the first three months after arrival and need is found to exist, it is the responsibility of the local Welfare Department to grant temporary assistance when the family does not meet the eligibility requirements for AFDC. If the family is otherwise eligible, AFDC is granted for a temporary period.

Temporary assistance may continue during the time arrangements are being made for returning a family to its former residence, but such arrangements will be completed within sixty days.

The worker will discuss the total situation with the family and if they wish to remain in Connecticut, it will be necessary for them to understand that they must be self-supporting since they will not be eligible to continue to receive AFDC or General Assistance. The family members are helped to evaluate realistically their plans and capabilities for self-support. If after a reasonable period of counseling, the family is unable to develop plans for self-support, arrangements for return are undertaken immediately and will be completed within sixty days. If the family does not wish to return, assistance will be discontinued *even though* the sixty day maximum period that temporary assistance may be given has not elapsed. Families who come to Connecticut from a State with which we have a formal reciproeal agreement waiving residence, will not be affected by this policy.

219.4 CRITERIA for "Self-Support"

Arrangements may be delayed up to the sixty day maximum from the date of application as the worker deems

appropriate to give the applicant time to become self-supporting if he has evidenced a desire and has the capability to become self-supporting.

Where there is potential for self-support and the applicant has a real interest or a plan to become self-supporting, assistance may be continued during the period counseling is given to help applicant achieve self-support.

Appropriate areas of counseling include referral to employment agencies such as the Connecticut State Employment Service, day care planning, referral to a "skill center" for further development of job skills, or referral to a work training project such as Title V. If further job training is to be undertaken, the training course must be approved by the worker, must be realistic in terms of the capabilities of the applicant, and must prepare the applicant for employment. If the applicant does not need additional job training he must make a sincere effort to seek and obtain employment. The applicant will be considered "self-supporting" and therefore not subject to be returned to the place he came from if within the sixty day period he has obtained regular employment or is enrolled in a work training course, approved by the worker, which will bring regular employment. If the training course cannot be completed within the sixty day period, assistance will be continued until the course is completed and the applicant obtains regular employment. Throughout the period the applicant is seeking employment or is undertaking job training, the worker will continue counseling services to the applicant to help him with problems which arise. If the applicant does not show a genuine effort to seek employment or does not show progress in an approved training course, arrangements for return will be made immediately and there is no further eligibility for assistance after the completion of the arrangements for return. If the applicant is eligible for Title V

and is assigned to a Title V project, assistance would then be given under the Group II provisions of that program. Assignment may be made to a Title V Group II project by the Department without referral from the local Welfare Department. For procedures, refer to Departmental Bulletin No. 1723.

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